

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
) 08 CR 215
v.)
) Hon. Amy J. St. Eve
KONSTANTINOS ALEXOPOULOS)

**GOVERNMENT'S MOTION FOR LEAVE
TO DEPOSE PROSPECTIVE WITNESSES**

The UNITED STATES OF AMERICA, by PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, respectfully moves this Court pursuant to Federal Rule of Criminal Procedure 15 for leave to depose prospective trial witnesses Florencio Chapol-Fiscal, Jesus Gutierrez-Sanchez, Andres Toto-Cholo, Efrain Escriban-Belli, Guadencio Castro-Fausto, Fermin Bueaventura-Valero, Ismael Lopez-Mendoza, Jenaro Cortez-Martinez, Marcos Torres, Miguel De Arcos, and Juan Gallegos-Sanchez. In support of this motion, the government states as follows:

1. On March 13, 2008, defendant Konstantinos Alexopoulos was charged in a one-count

indictment with illegally harboring illegal aliens for the purpose of commercial advantage and private financial gain, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iii) and 1324 (a)(1)(B)(i).

2. In the course of the investigation that led to the indictment returned against Alexopoulos, the government developed eleven witnesses against him: Florencio Chapol-Fiscal, Jesus Gutierrez-Sanchez, Andres Toto-Cholo, Efrain Escriban-Belli, Guadencio Castro-Fausto, Fermin Bueaventura-Valero, Ismael Lopez-Mendoza, Jenaro Cortez-Martinez, Marcos Torres, Miguel De Arcos, and Juan Gallegos-Sanchez. These eleven witnesses are undocumented aliens with no legal status in the Untied States, therefore the Bureau of Immigration and Customs

Enforcement had detained them pending removal. Because removal was imminent, and it would be impossible to secure their presence at trial through subpoena once deported, on March 14, 2008, the government sought material witness warrants pursuant to 18 U.S.C. § 3144. That same day, Emergency Judge Rebecca R. Pallmeyer granted the government's motion. The eleven witnesses then had their initial appearance before Magistrate Judge Susan E. Cox, at which time the government asked that the witnesses be detained pending completion of Rule 15 depositions. A detention hearing is scheduled to be held before Judge Cox on March 20, 2008.

3. The undocumented status of the eleven witnesses constitute exceptional circumstances within the meaning of Rule 15 of the Federal Rules of Criminal Procedure, and it would be in the interests of justice that the eleven witnesses' testimony be taken and preserved for use at trial.

4. The government has spoken with counsel for the defendant, Jonathan Minkus, and counsel appointed for the eleven witnesses at the time of their initial appearance, Jeff Levine, regarding the scheduling of depositions. Mr. Levine informed counsel for the government that he has contacted the Federal Defender panel regarding the appointment of separate counsel for each of the eleven witnesses, and he does not expect that issue to be resolved until at least March 20, 2008. Mr. Minkus has stated that he is available to proceed with the depositions late this week or next week.

5. If the Court is available during the week of March 24, 2008 to preside over the depositions and to rule on objections and motions as if at trial, and if defense counsel is available, counsel for the government can arrange for the videotaped depositions to take place pursuant to Rule 15 at the Court's and defense counsel's convenience. Judge Cox has stated that, if the Court

believes Judge Cox has jurisdiction to do so, she would be available during the week of March 24, 2008 to preside over the depositions if the Court is unavailable. At the conclusion of the depositions, the witnesses may then be returned to the custody of the Bureau of Immigration and Customs Enforcement so that they can be expeditiously removed to Mexico.

WHEREFORE, for the foregoing reasons, the United States respectfully requests that this Court order, pursuant to Federal Rule of Criminal Procedure 15(a)(2), that the testimony of Florencio Chapol-Fiscal, Jesus Gutierrez-Sanchez, Andres Toto-Cholo, Efrain Escriban-Belli, Guadencio Castro-Fausto, Fermin Bueaventura-Valero, Ismael Lopez-Mendoza, Jenaro Cortez-Martinez, Marcos Torres, Miguel De Arcos, and Juan Gallegos-Sanchez be taken and preserved for trial, due to the exceptional circumstances of this case and because it is in the interests of justice to do so.

Respectfully submitted,

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Dated: March 17, 2008

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CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that, on March 17, 2008, in accordance with Fed. R. Crim. P. 49, Fed. R. Civ. P. 5, L.R. 5.5, and the General Order on Electronic Case Filing (ECF), the following documents:

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were served pursuant to the district court's ECF system as to all ECF filers, and by first-class mail to non-ECF filers, if any.

Respectfully submitted,
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